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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,502	03/17/2004	Dana Brad	5569/79071 (03-27)	3667
22342 7590 06/22/2010 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
WANG, CLAIRE X				
ART UNIT		PAPER NUMBER		
2624				
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06/22/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,502

Applicant(s)

BRAD ET AL.

Examiner

CLAIRE WANG

Art Unit

2624

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-13, 18-21, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-13, 18-21, 26-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicants' response to the last Office Action, filed on March 16th, 2010 has been entered and made of record.
2. Applicant's amendment has necessitated new grounds of rejection. Thus, new grounds of rejection are presented in this Office Action.

Response to Arguments

3. Applicant's arguments filed March 16th, 2010 have been fully considered but they are not persuasive.

a. In response to Applicant's remarks that Laird does not describe a projection device, control a system, beam projector; project light line, project a beam from above and at an angle (Page 8 of Remarks), it is noted that Examiner agrees. However, Examiner looks to Wuestefeld to teach these deficiencies of Laird. Please see rejection below for detail analysis.

b. In response to Applicant's remarks of Wuestefeld deficiencies (Page 10 of Remarks), it is noted that they are now moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 21 and 26-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicant's specification teaches the controller is comprised of a memory with a stored image of a non-obstruction pattern which may be compared to periodically scanned patterns and only after the controller senses the difference between the image of the patterns stored in the memory and the digital representation of the pattern detected by the imaging device, then the signal is sent to the alarm unit (Specification pages 2-3). However, claims 21 and 26 teach the controller sends a response to stop the barrier (an alarm) without consulting a data structure stored in memory. This is not included in the current specification and thus it is considered new matter.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 21 and 26-27 are rejected under the second paragraph of 35 U.S.C. 112 as being indefinite. As to claims 21 and 26, they teach the controller stopping the barrier movement after sensing an interruption in the acquired image of the line of light by an obstruction and doing so without consulting a data structure stored in memory. This is in contradiction to the definition of the controller according to pages 2 and 3 of the specification. According to MPEP 2173.03 [R-1] inconsistency with the specification disclosure or prior art teachings may make an otherwise definite claim take on an unreasonable degree of uncertainty. Thus, Claims 21 and 26-27 are considered to be indefinite.
8. Claims 21 and 26-27 are withdrawn from prior art considerations until they have overcome the current rejections under 35 U.S.C. 112 first and second paragraphs.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2, 5-13 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laird (US 2003/0118237) in view of Wuestefeld et al. (US 6,737,970 B2 hereinafter "Wuestefeld"), further in view of Zur et al. (5,508,511 hereinafter "Zur").

As to claim 1, Laird teaches a barrier operator for moving a barrier between open and closed positions with respect to a barrier opening (a system that detects objects entering a garage door; Paragraph [0010], lines 1-3), comprising a pattern present during at least all movement of the barrier ([0012], lines 3-5); an imaging device to observe a portion of the barrier opening as illuminated by the optical pattern (CCD camera views the pattern; [0011], lines 2-4); and a controller coupled to the imaging device to sense when the optical pattern in the observed portion of the barrier opening changes, and generating a detection signal in response thereto (when an object enters the field of vision of the camera, it interrupts the viewing of the recognized pattern and the processor decides whether or not the object is a intrusion; if it is an intrusion, then a signal is sent to the head unit of the garage door operator; [0011], lines 12-22), the

detection signal being indicative of the presence of the obstruction at least during all movement of the barrier ([0012], lines 3-5).

Wuestefeld teaches an opto-electronic apparatus for detection of intrusion of an object (Title), wherein an illumination unit projects a straight line onto the monitored area, wherein the projected light is projected from top to bottom (Fig. 2). Further, the detected pattern of the line is compared to pre-set patterns stored in memory. When the detected pattern and the stored pattern is substantially the same, no object has been detected (Col. 3, lines 1-18). Thus, Wuestefeld reads on the claimed pattern used is generated using light projections, wherein the light projection being a single uninterrupted substantially straight line that is projected on the floor. Therefore, it would have been obvious for one ordinarily skilled in the art at the time the invention was made to modify the garage door obstacle detection system of Laird by changing the pattern detecting method with Wuestefeld's method of detection of intrusion of an object by the use of detecting change of captured projected line pattern from a light that is projected from top to bottom, in order to allow the garage door system to have a non-contact manner of operation (Wuestefeld Abstract). Furthermore, it would have been obvious because it is a combination of known elements to yield predictable results.

Laird and Wuestefeld teach sounding an alarm when an intrusion object is detected (Laird [0011]). However, they do not teach the detection signal effects at least a stopping or reversal of the closing movement of the barrier. Zur teaches stopping or reversing a closing door when an object is detected (Col. 1, lines 20-32). Thus, Zur reads on the claimed detection signal effects at least a stopping or reversal of the closing movement of the barrier. Therefore it would have been obvious for one ordinarily skilled in the art at the time the invention was made to have modified the alarm of Laird to further include stopping for reversing of the garage door in order to prevent personal injury and/or property damage to a person or thing caught in the closing door as well as damage to the door itself (Zur Col. 1, lines 20-24).

As to claim 2, Wuestefeld teaches wherein the imaging device is a single device (camera; 15 Fig. 2) which is configured to acquire an image of the line and detect an interruption of the line of light (line of light; 17 Fig. 2).

As to claim 5, Laird teaches having a pattern within the barrier opening in order to detect objects intruding in the area (Fig. 1) and Wuestefeld teaches the illuminating unit projecting an optical line within detection area (Fig. 2). Thus combination of Laird and Wuestefeld teach the light pattern generator is configured to be mounted above and at an angle to the barrier opening because it would have been obvious for one ordinarily skilled in the art at the time the invention was made to place the projecting unit of Wuestefeld above and at an angle to the barrier opening of Laird, since it is simply substituting pattern with another. The optical light pattern of Wuestefeld performs the same function as the printed of Laird, thus yielding predictable results.

As to claim 6, Laird teaches an alarm device to generate an alarm device configured to generate an alarm indication in response to the detection signal ([0011] lines 20-22).

As to claim 7, Wuestefeld teaches wherein the alarm indication is an audible signal (Col. 1, lines 24-25).

As to claim 8, Wuestefeld teaches wherein the alarm indication is a visual signal (shut down the machine is something that can read as a visual signal or some other action could also be read as a visual signal; Col. 1, lines 24-25).

As to claim 9, Laird teaches a barrier drive unit for moving the barrier and wherein the controller is responsive to the detection signal to control the barrier drive (barrier movement operator; [0005], line 6).

As to claim 11, Laird teaches wherein the imaging device is a CCD camera (1 Fig. 1).

As to claim 12, Wuestefeld teaches wherein the light pattern generator is disposed on the barrier (projecting a line onto the detection area and in this case the monitored area is the side wall of the garage door; Col. 3, lines 1-18).

As to claim 13, Laird teaches a barrier movement operator ([0005], line 6). Laird does not expressly disclose that the barrier movement operator contains a head unit with a motor for moving the barrier. However, Examiner takes Official Notice that a motor for moving barriers is well known in the art. It would have been obvious at the time of the invention was made to one of ordinary skill in the art to add a motor to the barrier movement operator since Examiner takes official notice that motors are commonly used to move barriers.

As to claim 18, it is the method claim of claim 5. Please see above for detail analysis.

As to claim 19, Wuestefeld teaches generating an alarm signal responsive to the control signal (Col. 1, lines 23-24).

As to claim 20, Laird teaches having a pattern within the barrier opening in order to detect objects intruding in the area (Fig. 1) and Wuestefeld teaches the illuminating unit projecting an optical line within detection area and detecting said optical line using a camera (Fig. 2). Thus combination of Laird and Wuestefeld teach wherein the digital imaging device is at an angle offset from the vertical plane formed by the barrier when it closes the opening because it would have been obvious for one ordinarily skilled in the art at the time the invention was made to place the camera in the same position as it is shown in Fig. 2 of Wuestefeld to the barrier opening system of Laird because it is replace known elements and yielding predictable results.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laird. Wuestefeld and Zur further in view of Cofer .

As to claim 10, Laird and Wuestefeld teach an object detection system wherein an electrical light pattern is generated in order to detect the object (Wuestefeld Col. 3, lines 1-18). Cofer teaches an apparatus for detection objects also using projected light patterns, wherein the light patterns are generated using a laser diode (Cofer Col. 3, line 59) and an optical lens to focus a beam generated by the laser diode (Cofer Col. 3, line 61). Thus, Cofer reads on the claimed laser diode and optical lens. Therefore, it would have been obvious for one ordinarily skilled in the art at the time the invention was made to combine the laser diode and optical lens of Cofer with light pattern of Laird and Wuestefeld since it is well known in the art that the combination of a laser and optical lens may produce light patterns.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLAIRE WANG whose telephone number is (571)270-1051. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vu Le/
Supervisory Patent Examiner, Art Unit 2624

/Claire Wang/
Examiner, Art Unit 2624
06/08/2010